

**BOARD OF OPTOMETRY
FULL BOARD MEETING
JUNE 5, 2017**

TIME AND PLACE: The Board of Optometry (Board) meeting was called to order at 9:00 a.m. at the Department of Health Professions (DHP), Perimeter Center, 9960 Mayland Drive, 2nd Floor, Room 2, Henrico, Virginia 23233.

PRESIDING OFFICER: Steven A. Linas, O.D., Chair

MEMBERS PRESENT: Helene Clayton-Jeter, O.D.
Fred E. Goldberg, O.D.
Clifford A. Roffis, O.D.
Lisa Wallace-Davis, O.D.
Devon Cabot, Citizen Member

MEMBERS NOT PRESENT: All board members were present.

STAFF PRESENT: David E. Brown, D.C., Director
Leslie L. Knachel, Executive Director
Charis Mitchell, Assistant Attorney General, Board Counsel
Amanda E. M. Blount, Deputy Executive Director
Elaine Yeatts, Senior Policy Analyst
Carol Stamey, Operations Manager

OTHERS PRESENT: Mark Hickman, Commonwealth Strategy Group/Virginia Society of Eye Physicians and Surgeons

QUORUM: With six members of the Board present, a quorum was established.

ORDERING OF AGENDA Dr. Goldberg moved to approve the agenda as presented. The motion was seconded and carried.

PUBLIC COMMENT: No public comment was presented; however, written public comment from the Virginia Optometric Association (VOA) was received and reviewed by the Board.

APPROVAL OF MINUTES: Dr. Wallace-Davis moved to approve the January 31, 2017, and February 15, 2017, meeting minutes as presented. The motion was seconded and carried.

LEGISLATIVE/REGULATORY UPDATE: **2018 Proposed Legislation**
Ms. Yeatts provided the following overview of the draft legislation:

- During the Board's January 31, 2017, board meeting, the Board approved moving forward with the discussed legislative changes.
- The draft legislation was circulated following the meeting to ensure that all approved changes were made. Additional questions were raised and it was determined that a new draft and the Board's approval were needed before proceeding.
- The purpose of the draft legislation is to remove outdated Code of Virginia sections.

- The draft was discussed which included the comments provided by the VOA. To include the following (See Attachment 1 for final draft):
 - §54.1-3202. Exemptions: Discussed defining supervision. It was determined that this could be done in the regulations. No changes were made to draft.
 - §54.1-3211. Examination: No changes were made to draft.
 - §54.1-3213. Issuance of license; fee; renewal: No changes were made to draft.
 - §54.1-3215. Reprimand, revocation and suspension: No changes were made to draft.
 - §54.1-3220. Certification for administration of diagnostic pharmaceutical agents: No changes were made to draft.
 - §54.1-3221. “Diagnostic pharmaceutical agents” defined: utilization; acquisition: Ms. Yeatts stated that the authority for an optometrist to purchase, possess or administer diagnostic pharmaceutical agents is found in the §54.1-3301(pharmacy) of the Code of Virginia. Therefore, this section was no longer needed. The board made no changes to the proposed language as presented.
 - §54.1-3222. TPA certification; certification for treatment of diseases or abnormal conditions with therapeutic pharmaceutical agents: The Board discussed that the therapeutic pharmaceutical agent (TPA) didactic training was included in the curriculum of all accredited optometry schools; therefore, consultation with a school of optometry or medicine was no longer needed. The Board requested the deletion of “after consultation with a school or college of optometry and a school of medicine” from § 54.1-3222(2).
 - §54.1-3223. Regulations relating to instruction and training, examination, and therapeutic pharmaceutical agents: The Board discussed making further deletions to this section. Ms. Yeatts explained that although the TPA-Formulary Committee has been inactive for a number of years, it is made up of stakeholders that would act as an advisory panel to the Board should a new class of drugs need to be added to the list of approved drugs prescribed or administered by optometrists. Furthermore, this section provides an exemption to the Administrative Process Act for amending regulations should new drugs need to be added to the regulations. No changes were made to the draft.
 - §54.1-3224. Denial, etc., of TPA certification; disciplinary actions; summary suspension under certain circumstances: No changes were made to the draft.

Dr. Linas initiated a discussion regarding the impact of a new governor on legislative changes. Dr. Brown and Ms. Yeatts explained that the pending change in the administration should not affect moving forward with this legislative package.

Dr. Wallace-Davis moved to go forward with the proposed legislation as presented with the amendment to § 54.1-3222(2). The motion was seconded and carried.

NEXT MEETING:

Dr. Linas noted that the next board meeting is scheduled for July 21, 2017, and the topic of opioid prescription abuse would be included on the agenda.

ADJOURNMENT:

The meeting adjourned at 9:10 a.m.

Steven A. Linas, O.D.
Chair

Leslie L. Knachel, M.P.H.
Executive Director

Legislative Draft

Proposed Changes to Chapter 32. Optometry.

§ 54.1-3202. Exemptions.

This chapter shall not apply to:

1. Physicians licensed to practice medicine by the Board of Medicine or to prohibit the sale of nonprescription eyeglasses and sunglasses; ~~or~~
2. Any optometrist rendering free health care to an underserved population in Virginia who (i) does not regularly practice optometry in Virginia, (ii) holds a current valid license or certificate to practice optometry in another state, territory, district or possession of the United States, (iii) volunteers to provide free health care in an underserved area of this Commonwealth under the auspices of a publicly supported all volunteer, nonprofit organization that sponsors the provision of health care to populations of underserved people, (iv) files a copy of his license or certification in such other jurisdiction with the Board, (v) notifies the Board at least five business days prior to the voluntary provision of services of the dates and location of such service, and (vi) acknowledges, in writing, that such licensure exemption shall only be valid, in compliance with the Board's regulations, during the limited period that such free health care is made available through the volunteer, nonprofit organization on the dates and at the location filed with the Board. The Board may deny the right to practice in Virginia to any optometrist whose license or certificate has been previously suspended or revoked, who has been convicted of a felony or who is otherwise found to be in violation of applicable laws or regulations. However, the Board shall allow an optometrist who meets the above criteria to provide volunteer services without prior notice for a period of up to three days, provided the nonprofit organization verifies that the practitioner has a valid, unrestricted license in another state; or
3. Any student, intern or trainee in optometry, engaged in a course of study at an accredited university or college under the direct supervision of a licensed optometrist or ophthalmologist, while performing optometric services constituting a part of his supervised course of study.

§ 54.1-3211. Examination.

The Board shall set the necessary standards to be attained in the examinations to entitle the candidate to receive a license to practice optometry.

~~The examination shall be given at least semiannually if there are any candidates who have applied to the Board for examination at least 30 days before the date for the examination.~~

~~The examination shall include anatomy; physiology; pathology; general and ocular pharmacology designed to test knowledge of the proper use, characteristics, pharmacological effects, indications, contraindications and emergency care associated with the use of diagnostic pharmaceutical agents; and the use of the appropriate instruments.~~

The Board may determine a score that it considers satisfactory on any written examination of the National Board of Examiners in Optometry. ~~The Board may waive its examination for a person who achieves a satisfactory score on the examination of the National Board of Examiners in Optometry.~~

Those persons licensed on or before June 30, 1997, to practice optometry in this state but not certified to administer diagnostic pharmaceutical agents may continue to practice optometry but may not administer diagnostic pharmaceutical agents without satisfying the requirements of this section. Those persons licensed after June 30, 1997, shall be considered as certified to administer diagnostic pharmaceutical agents. After June 30, 2004, every person who is initially licensed to practice optometry in Virginia shall meet the qualifications for a TPA-certified optometrist.

§ 54.1-3213. Issuance of license; fee; renewal.

Every candidate successfully passing the examination shall be licensed by the Board as ~~possessing~~ if such candidate possesses the qualifications required by law and regulation to practice optometry.

~~The fee for examination and licensure shall be prescribed by the Board and shall be paid to the executive director of the Board by the applicant upon filing his application.~~

Every license to practice optometry granted under the provisions of this chapter shall be renewed at such time, in such manner and upon payment of such fees as the Board may prescribe.

§ 54.1-3215. Reprimand, revocation and suspension.

The Board may ~~revoke or suspend a license or reprimand the licensee~~ refuse to admit an applicant to any examination; refuse to grant or renew a license or certificate; or reprimand, impose a monetary penalty, place on probation, impose such terms as it may designate, suspend for a stated period of time or indefinitely, or revoke any license or certificate for any of the following causes:

1. Fraud or deceit in his practice;
2. Conviction of any felony under the laws of the Commonwealth, another state, the District of Columbia or any United States possession or territory or of any misdemeanor under such laws involving moral turpitude;
3. Conducting his practice in such a manner as to endanger the health and welfare of his patients or the public;
4. Use of alcohol or drugs to the extent such use renders him unsafe to practice optometry or mental or physical illness rendering him unsafe to practice optometry;
5. Knowingly and willfully employing an unlicensed person to do anything for which a license to practice optometry is required;
6. ~~Practicing optometry while suffering from any infectious or contagious disease;~~
7. Neglecting or refusing to display his license ~~and the renewal receipt~~ for the current year;

~~8.7.~~ Obtaining of any fee by fraud or misrepresentation or the practice of deception or fraud upon any patient;

~~9.8.~~ Advertising which directly or indirectly deceives, misleads or defrauds the public, claims professional superiority, or offers free optometrical services or examinations;

~~10.9.~~ Employing, procuring, or inducing a person not licensed to practice optometry to so practice;

~~11.10.~~ Aiding or abetting in the practice of optometry any person not duly licensed to practice in this Commonwealth;

~~12.11.~~ Advertising, practicing or attempting to practice optometry under a name other than one's own name as set forth on the license;

~~13.12.~~ Lending, leasing, renting or in any other manner placing his license at the disposal or in the service of any person not licensed to practice optometry in this Commonwealth;

~~14.13.~~ Splitting or dividing a fee with any person or persons other than with a licensed optometrist who is a legal partner or comember of a professional limited liability company formed to engage in the practice of optometry;

~~15.14.~~ Practicing optometry where any officer, employee, or agent of a commercial or mercantile establishment, as defined in subsection C of § 54.1-3205, who is not licensed in Virginia to practice optometry or medicine directly or indirectly controls, dictates, or influences the professional judgment, including but not limited to the level or type of care or services rendered, of the licensed optometrist;

~~16.15.~~ Violating other standards of conduct as adopted by the Board;

~~17.16.~~ Violating, assisting, inducing or cooperating with others in violating any provisions of law relating to the practice of optometry, including the provisions of this chapter, or of any regulation of the Board.

§ 54.1-3220. Certification for administration of diagnostic pharmaceutical agents. (Repealed).

~~In order to become certified to administer diagnostic pharmaceutical agents for the purpose of examining and determining abnormal or diseased conditions of the human eye or related structures, an optometrist shall:~~

~~1. Complete successfully a Board-approved course in general and ocular pharmacology as it relates to the practice of optometry which shall consist of at least fifty-five classroom hours including a minimum of fifteen classroom hours in general pharmacology, twenty classroom hours in ocular pharmacology and twenty classroom hours of clinical laboratory presented by a college or university accredited by a regional or professional accreditation organization which is recognized or approved by the Council on Post Secondary Accreditation or by the United States Department of Education.~~

~~2. Pass a Board-approved, performance-based examination on general and ocular pharmacology designed to test knowledge of the proper use, characteristics, pharmacological effects, indications, contraindications and emergency care associated with the use of diagnostic pharmaceutical agents as defined in this article.~~

§ 54.1-3221. "Diagnostic pharmaceutical agents" defined; utilization; acquisition.

~~A. Certified optometrists~~ Optometrists certified to administer diagnostic pharmaceutical agents ~~or optometrists licensed after June 30, 1997~~ may administer diagnostic pharmaceutical agents only by topical application to the human eye. "Diagnostic pharmaceutical agents" shall be defined as Schedule VI controlled substances as set forth in the Drug Control Act (§ 54.1-3400 et seq.) that are used for the purpose of examining and determining abnormal or diseased conditions of the human eye or related structures.

B. Any optometrist who utilizes diagnostic pharmaceutical agents without being certified ~~as required by this article to administer diagnostic pharmaceutical agents or licensed after June 30, 1997~~ shall be subject to the disciplinary sanctions provided in this chapter.

C. Licensed drug suppliers or pharmacists are authorized to supply optometrists with diagnostic pharmaceutical agents upon presentation of evidence of Board certification for administration of such drugs ~~or an optometrist license issued after June 30, 1997.~~

§ 54.1-3222. TPA certification; certification for treatment of diseases or abnormal conditions with therapeutic pharmaceutical agents (TPAs).

A. The Board shall certify an optometrist to prescribe for and treat diseases or abnormal conditions of the human eye and its adnexa with therapeutic pharmaceutical agents (TPAs), if the optometrist files a written application, accompanied by the fee required by the Board and satisfactory proof that the applicant:

1. Is ~~licensed~~ qualified for licensure by the Board as an optometrist ~~and certified to administer diagnostic pharmaceutical agents pursuant to Article 4 (§ 54.1-3220 et seq.);~~
2. Has satisfactorily completed such didactic and clinical training programs for the treatment of diseases and abnormal conditions of the eye and its adnexa as are determined, ~~after consultation with a school or college of optometry and a school of medicine,~~ to be reasonable and necessary by the Board to ensure an appropriate standard of medical care for patients; and
3. Passes such examinations as are determined to be reasonable and necessary by the Board to ensure an appropriate standard of medical care for patients.

B. TPA certification shall enable an optometrist to prescribe and administer, within his scope of practice, Schedule II controlled substances consisting of hydrocodone in combination with acetaminophen and Schedules III through VI controlled substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) to treat diseases and abnormal conditions of the human eye and its adnexa as determined by the Board, within the following conditions:

1. Treatment with oral therapeutic pharmaceutical agents shall be limited to (i) analgesics included on Schedule II controlled substances as defined in § 54.1-3448 of the Drug Control Act (§ 54.1-3400 et seq.) consisting of hydrocodone in combination with acetaminophen, and analgesics included on Schedules III through VI, as defined in §§ 54.1-3450 and 54.1-3455 of the Drug Control Act, which are appropriate to alleviate ocular pain and (ii) other Schedule VI controlled substances as defined in § 54.1-3455 of the Drug Control Act appropriate to treat diseases and abnormal conditions of the human eye and its adnexa.

2. Therapeutic pharmaceutical agents shall include topically applied Schedule VI drugs as defined in § 54.1-3455 of the Drug Control Act (§ 54.1-3400 et seq.).
3. Treatment of angle closure glaucoma shall be limited to initiation of immediate emergency care.
4. Treatment of infantile or congenital glaucoma shall be prohibited.
5. Treatment through surgery or other invasive modalities shall not be permitted, except for treatment of emergency cases of anaphylactic shock with intramuscular epinephrine.
6. Entities permitted or licensed by the Board of Pharmacy to distribute or dispense drugs, including, but not limited to, wholesale distributors and pharmacists, shall be authorized to supply TPA-certified optometrists with those therapeutic pharmaceutical agents specified by the Board on the TPA-Formulary.

§ 54.1-3223. Regulations relating to instruction and training, examination, and therapeutic pharmaceutical agents.

A. The Board shall promulgate such regulations governing the treatment of diseases and abnormal conditions of the human eye and its adnexa with therapeutic pharmaceutical agents by TPA-certified optometrists as are reasonable and necessary to ensure an appropriate standard of medical care for patients, including, but not limited to, determinations of the diseases and abnormal conditions of the human eye and its adnexa that may be treated by TPA-certified optometrists, treatment guidelines, and the drugs specified on the TPA-Formulary.

~~In establishing standards of instruction and training, the Board shall consult with a school or college of optometry and a school or college of medicine and shall set a minimum number of hours of clinical training to be supervised by an ophthalmologist. The didactic and clinical training programs may include, but need not be limited to, programs offered or designed either by schools of medicine or schools or colleges of optometry or both or some combination thereof.~~

~~The Board may prepare, administer, and grade appropriate examinations for the certification of optometrists to administer therapeutic pharmaceutical agents or may contract with a school of medicine, school or college of optometry, or other institution or entity to develop, administer, and grade the examinations.~~

In order to maintain a current and appropriate list of therapeutic pharmaceuticals on the TPA-Formulary, current and appropriate treatment guidelines, and current and appropriate determinations of diseases and abnormal conditions of the eye and its adnexa that may be treated by TPA-certified optometrists, the Board may, from time to time, amend such regulations. Such regulations shall be exempt from the requirements of the Administrative Process Act (§ 2.2-4000 et seq.), except to any extent that they may be specifically made subject to §§ 2.2-4024, 2.2-4030, and 2.2-4031; the Board's regulations shall, however, comply with § 2.2-4103 of the Virginia Register Act (§ 2.2-4100 et seq.). The Board shall, however, conduct a public hearing prior to making amendments to the TPA-Formulary, the treatment guidelines or the determinations of diseases and abnormal conditions of the eye and its adnexa that may be treated by TPA-certified optometrists. Thirty days prior to conducting such hearing, the Board shall give written notice by mail or electronic means of the date, time, and place of the hearing to all currently TPA-certified optometrists and any other persons requesting to be notified of the hearings and publish notice of its intention to amend the list in the Virginia Register of Regulations. During the public hearing, interested

parties shall be given reasonable opportunity to be heard and present information prior to final adoption of any TPA-Formulary amendments. Proposed and final amendments of the list shall also be published, pursuant to § 2.2-4031, in the Virginia Register of Regulations. Final amendments to the TPA-Formulary shall become effective upon filing with the Registrar of Regulations. The TPA-Formulary shall be the inclusive list of the therapeutic pharmaceutical agents that a TPA-certified optometrist may prescribe.

B. To assist in the specification of the TPA-Formulary, there shall be a seven-member TPA-Formulary Committee, as follows: three Virginia TPA-certified optometrists to be appointed by the Board of Optometry, one pharmacist appointed by the Board of Pharmacy from among its licensees, two ophthalmologists appointed by the Board of Medicine from among its licensees, and the chairman who shall be appointed by the Board of Optometry from among its members. The ophthalmologists appointed by the Board of Medicine shall have demonstrated, through professional experience, knowledge of the optometric profession. In the event the Board of Pharmacy or the Board of Medicine fails to make appointments to the TPA-Formulary Committee within 30 days following the Board of Optometry's requesting such appointments, or within 30 days following any subsequent vacancy, the Board of Optometry shall appoint such members.

The TPA-Formulary Committee shall recommend to the Board those therapeutic pharmaceutical agents to be included on the TPA-Formulary for the treatment of diseases and abnormal conditions of the eye and its adnexa by TPA-certified optometrists.

§ 54.1-3224. Denial, etc., of TPA certification; disciplinary actions; summary suspension under certain circumstances. (Repealed).

~~A. The Board of Optometry may deny, refuse to renew, revoke, or suspend any TPA certificate issued to a TPA-certified optometrist, or applied for by a licensed optometrist in accordance with the provisions of this article, or may discipline or reprimand any certificate holder for violations of this chapter or the Board's regulations.~~

~~B. The Board may take action summarily to suspend a TPA-certified optometrist's certification under this section by means of a telephone conference call if, in the opinion of a majority of the Board, (i) a good faith effort to convene a regular meeting of the Board has failed and (ii) there is an imminent danger to the public health or safety which warrants this action.~~